

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MISTY BILLOCK,)	Case No.: 5:20 CV 2861
)	
Plaintiff)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant)	<u>ORDER</u>

The Commissioner of Social Security Administration (“Commissioner”) denied supplemental security income and disability insurance benefits to Plaintiff Misty Billock (“Claimant”), in the above-captioned case. Plaintiff sought judicial review of the Commissioner’s decision, and this court referred the case to Magistrate Judge Carmen E. Henderson (“Magistrate Judge” or “Judge Henderson”) for preparation of a Report and Recommendation (“R&R”). Defendant filed the Administrative Record (ECF No. 11) on July 26, 2021. Pursuant to Local R. 16.3.1(e), Plaintiff’s brief was due on or before September 9, 2021. Plaintiff never filed her brief or sought additional time to file her brief. Accordingly, on December 7, 2021, Judge Henderson issued an Order to Show Cause (ECF No. 12) directing Plaintiff to show cause, on or before December 20, 2021, as to why the case should not be dismissed for failure to prosecute. Plaintiff never responded.

Judge Henderson submitted a R&R (ECF No. 13) on January 26, 2022, recommending that the court dismiss the matter for failure to prosecute. The R&R explains that the Sixth Circuit looks to the *Knoll* factors—in determining whether a case should be dismissed for failure to prosecute—

which asks: “(1) whether the party’s failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party’s conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.” (R&R at PageID #1757, ECF No. 13 (citing *Knoll v. AT&T*, 176 F.3d 359, 363 (6th Cir. 1999))). Judge Henderson determined that each of the *Knoll* factors had been met because: (1) Plaintiff failed to file her brief even after the court provided her with time beyond the original date; (2) Defendant has been required to defend Plaintiff’s claim; (3) the court warned Plaintiff on December 7, 2021, that failure to file a brief may result in dismissal of her action for failure to prosecute; and (4) that in order to adjudicate the matter, Plaintiff’s brief is necessary. (*Id.* at PageID #1758.) After careful review of Judge Henderson’s R&R, and all other relevant documents in the record, the court finds no clear error. Accordingly, the court adopts as its own Judge Henderson’s R&R (ECF No. 13). The court hereby dismisses the action without prejudice for failure to prosecute.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

February 17, 2022